IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2275 OF 2006
IN
WRIT PETITION NO. 6151 OF 2005

Shridhar S. Kulkarni and ors. ...Petitioners

Versus

The Union of India ...Respondent

And

Vincent Nazareth ... Applicant

Mr. J.P. Cama, Senior Advocate, instructed by M/s. Mohana Nair & Associates, for the applicant.

Mr. Firdosh Pooniwala, instructed by Crawford Bayley & Co. for the petitioners.

Mr. A.M. Sethna with Mr. N.D. Sharma for respondent No.1.

WITH

CIVIL APPLICATION NO. 2276 OF 2006
IN
WRIT PETITION NO. 8763 OF 2005

Namdeo Kamathe and ors. ...Petitioners

Versus

The Union of India ...Respondent

And

Vincent Nazareth ... Applicant

Mr. J.P.Cama, Senior Advocate, instructed by M/s. Mohana Nair & Associates, for the applicant.

Mr. N.H. Seervai, Senior Advocate, instructed by M/s. Nanu Hormasjee & Co., for the petitioners.

Mr. A.M. Sethna with Mr. N.D. Sharma for respondent No.1.

CORAM: **H.S. BEDI, C.J.,** &
V.M. KANADE, J.

DATE: **OCTOBER 06, 2006**.

P.C.

These applications have been filed seeking permission of the Court for allowing the applicant to intervene in the writ petitions. It has been averred in the applications that cigarette smoking was a huge health hazard for active as well as passive smokers and that the Union of India, which was to defend the writ petition, appears to be disinterested in doing so. It has further been pleaded that the applicant was actively engaged in fighting a campaign against the use of tobacco and other related matters and was, therefore, entitled to maintain these applications. In support of the applications, several orders of the Hon'ble Supreme Court of India have been appended to highlight the concern of the Court and the urgency in the matter and in particular the observation that cigarette smoking in public places was a health hazard which was required to be curbed not only by law but by social

action as well.

2. An affidavit in reply dated 20th September, 2006 has been filed by the petitioner in response to the above applications. It has been pointed out that the Union of India and the State Governments had taken all necessary steps for defending the writ petitions and that in case these applications were allowed, a flood of similar applications would follow. It has also been contended that the challenge in the writ petition was limited to the constitutional validity of certain Statutes/Rules and as such the applicant, who was seeking a ban on smoking as a health hazard had no *locus standi* to maintain the application.

3. The learned counsel for the Union of India has further pointed out that a transfer application had been moved by the Union of India before the Supreme Court seeking to transfer these petitions to the Delhi High Court as similar matters had already been transferred to that Court and as such these natters should be deferred for some time.

4. We have considered the arguments advanced by the learned counsel. It cannot be denied that cigarette smoking and use of tobacco is an enormous health hazard. We are of the opinion that an anti-

tobacco activist has every right to be represented in these proceedings, more particularly as tobacco smoking and its use in other forms is a clear social evil which needs to be curbed. It is true that the challenge in the writ petition is to the constitutional validity of certain statutory provision but this would not detract the right of the applicant to intervene in the matter. We also find that merely because a transfer application has been filed before the Hon'ble Supreme Court would not foreclose the option of this Court to allow the applicant to intervene in the matter at this stage.

5. In the facts and circumstances, we allow the applications and permit the applicant to intervene in the petitions.

CHIEF JUSTICE

V.M. KANADE, J.